

underscored material = new
[bracketed material] = delete

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

HOUSE BILL 1018

47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005

INTRODUCED BY

Janice E. Arnold-Jones

AN ACT

RELATING TO TAXATION; REQUIRING THAT AT LEAST TEN PERCENT OF
THE STATE INVESTMENT OFFICER'S PURCHASES OF ESTIMATED FILM
PRODUCTION TAX CREDITS INCLUDE PURCHASES FROM FILM PRODUCTION
COMPANIES WITH NEW MEXICO RESIDENT CORPORATE OFFICERS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 7-27-5.26 NMSA 1978 (being Laws 2000
(2nd S.S.), Chapter 6, Section 2, as amended) is amended to
read:

"7-27-5.26. INVESTMENT IN FILMS TO BE PRODUCED IN NEW
MEXICO.--

A. No more than two and one-half percent of the
market value of the severance tax permanent fund may be
invested in New Mexico film private equity funds or a New
Mexico film project under this section.

underscored material = new
[bracketed material] = delete

1 B. If an investment is made under this section, not
2 more than seven million five hundred thousand dollars
3 (\$7,500,000) of the amount authorized for investment pursuant
4 to Subsection A of this section shall be invested in any one
5 New Mexico film private equity fund or any one New Mexico film
6 project.

7 C. The state investment officer shall make
8 investments pursuant to this section only upon approval of the
9 state investment council after a review by the private equity
10 investment advisory committee and the New Mexico film division
11 of the economic development department. The state investment
12 officer may make debt or equity investments pursuant to this
13 section only in New Mexico film projects or New Mexico film
14 private equity funds that invest only in film projects that:

15 (1) are filmed wholly or substantially in New
16 Mexico;

17 (2) have shown to the satisfaction of the New
18 Mexico film division that a distribution contract is in place
19 with a reputable distribution company;

20 (3) have agreed that, while filming in
21 New Mexico, a majority of the production crew will be
22 New Mexico residents;

23 (4) have posted a completion bond that has
24 been approved by the New Mexico film division; provided that a
25 completion bond shall not be required if the fund or project is

.156279.1

underscored material = new
[bracketed material] = delete

1 guaranteed pursuant to Paragraph (5) of this subsection; and

2 (5) have obtained a full, unconditional and
3 irrevocable guarantee of repayment of the invested amount in
4 favor of the severance tax permanent fund:

5 (a) from an entity that has a credit
6 rating of not less than Baa or BBB by a national rating agency;

7 (b) from a substantial subsidiary of an
8 entity that has a credit rating of not less than Baa or BBB by
9 a national rating agency;

10 (c) by providing a full, unconditional
11 and irrevocable letter of credit from a United States
12 incorporated bank with a credit rating of not less than A by a
13 national rating agency; or

14 (d) from a substantial and solvent
15 entity as determined by the state investment council in
16 accordance with its standards and practices; or

17 (6) if not guaranteed pursuant to Paragraph
18 (5) of this subsection, have obtained no less than one-third of
19 the estimated total production costs from other sources as
20 approved by the state investment officer.

21 D. The state investment officer may purchase at a
22 discount, from an eligible New Mexico film project, up to
23 eighty percent of an expected and estimated film production tax
24 credit available to a film production company pursuant to the
25 provisions of Section 7-2F-1 NMSA 1978; provided that at least

.156279.1

underscored material = new
[bracketed material] = delete

1 ten percent of the state investment officer's purchases
2 pursuant to this subsection are purchases of estimated film
3 production tax credits for any taxable year beginning on or
4 after January 1, 2005 made available to film production
5 companies that have corporate officers who are each residents
6 of New Mexico. The New Mexico film division of the economic
7 development department shall determine the estimated amount of
8 a film production tax credit. The state investment council
9 shall establish guidelines for the state investment officer's
10 initiation of a purchase and the terms of the purchase.

11 E. As used in this section:

12 (1) "committed capital" means the sum of the
13 fixed amounts of money that accredited investors have obligated
14 for investment in a New Mexico film private equity fund, which
15 fixed amounts may be invested in that fund in one or more
16 payments over time;

17 (2) "film project" means a single media or
18 multimedia program, including advertising messages, fixed on
19 film, videotape, computer disc, laser disc or other similar
20 delivery medium from which the program can be viewed or
21 reproduced and that is intended to be exhibited in theaters;
22 licensed for exhibition by individual television stations,
23 groups of stations, networks, cable television stations or
24 other means; or licensed for the home viewing market; and

25 (3) "New Mexico film private equity fund"

.156279.1

underscoring material = new
[bracketed material] = delete

1 means any limited partnership, limited liability company or
2 corporation organized and operating in the United States that:

3 (a) has as its primary business activity
4 the investment of funds in return for equity in film projects
5 produced wholly or partly in New Mexico;

6 (b) holds out the prospects for capital
7 appreciation from such investments; and

8 (c) accepts investments only from
9 accredited investors as that term is defined in Section 2 of
10 the federal Securities Act of 1933, as amended, and rules
11 promulgated pursuant to that section."

12 - 5 -
13
14
15
16
17
18
19
20
21
22
23
24
25